

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-27 and 30-31 are pending, Claim 28 and 29 having been canceled without prejudice or disclaimer, Claims 30-31 added, and Claims 1, 8, 15, 22, 23, and 26 amended by way of the present amendment.

In the outstanding Office Action, Claims 28 and 29 were rejected under 35 U.S.C. § 101; Claims 8 and 28 were rejected under 35 U.S.C. § 112, second paragraph; Claims 1, 6-15, 17-19, 22-23 and 25-29 were rejected as being unpatentable over Wang et al. (U.S. Patent No. 7,200,683, hereinafter “Wang”) in view of Ceulaer et al. (U.S. Patent Publication No. 2002/0047860, hereinafter “Ceulaer”); Claim 2 was rejected as being unpatentable over Wang in view of Ceulaer and in further view of Soepenberget al. (U.S. Patent Publication No. 2002/0059645, hereinafter “Soepenberget”); Claims 3-5, 16 and 24 were rejected as being unpatentable over Wang in view of Ceulaer and in further view of ETSI TS 101 812 V1.1.1, (Digital Video Broadcasting Multimedia Home Platform Specification); and Claims 20-21 were rejected as being unpatentable over Wang in view of Ceulaer and Woodruff (U.S. Patent No. 2003/0046592).

In reply, Claims 28 and 29 have been canceled and new Claims 30-31 have been added, consistent with 35 U.S.C. § 101.

Likewise, Claim 8 was amended to be consistent with 35 U.S.C. § 112, second paragraph.

The amendment to Claim 1 was made as a matter of form to remove element numbers and avoid any implication the claim should be limited to the specific elements identified in the specification. Rather, Claim 1, as well as the other claims in the present application, should be construed based on the plain meaning of the terms, in light of the present

specification. The original inclusion of the specific element numbers, which is a European practice, was not intended to restrict the scope of the presently claimed invention to the specific features shown in the figures in the specification.

Amended Claim 1 is directed to an MHP terminal device that includes a broadcast interface for receiving a broadcast transport stream wherein a broadcast MHP application to be launched at the MHP terminal device is transmitted within the broadcast transport stream and is received via the broadcast interface. A local network interface connects the MHP terminal device to a local network and receives local network transport streams emanating from other network devices connected to the local network so that local network MHP applications to be launched at the MHP terminal device are transmitted within the local network transport streams and are received via the local network interface.

Assuming *arguendo* that Wang teaches a terminal device comprising a broadcast interface for receiving a broadcast transport stream. If the direct broadcast satellite system in Wang is considered, as the Office correctly observes, Wang does not teach that the terminal device is an MHP device. Furthermore, Wang does not teach MHP applications to be launched, at said MHP terminal device, when transmitted within the broadcast transport stream and received via the broadcast interface. Therefore, there is a significant difference between Wang and Claim 1, since Wang is related to television broadcast stream over a network, whereas Claim 1 is related to transmitting actual MHP applications via a broadcast transport stream, which can also be launched at the MHP terminal device.

Further, Wang might disclose a local network interface for connecting a terminal device to a local network and for receiving local network transport streams emanating from other network devices connected to the local network. But again, Wang does not teach that MHP applications are launchable at an MHP terminal device and are therefore transmitted within the local network transport stream and also received via the local network interface.

In this context, the Office alleges that Wang teaches that local network applications such as graphical user interfaces (GUI) are launched at a terminal device and are transmitted within the local network transport streams. The cited passage in Wang is col. 8, line 67 to col. 9, line 5, wherein it is disclosed that one software application sends information back to another software application via the network including for example a control GUI. That is, a GUI might be transmitted via the network to a terminal, whereby it should be clear that a GUI is not an actual application but merely a graphic interface for selecting or controlling applications. Therefore, it is highly contestable, if the control GUI really is an application or might, for example, only consist of graphic patterns. However, it is not explicitly disclosed that applications, not to mention MHP applications, are sent through the broadcast stream.

Now, the Office also alleges that Ceulaer discloses an MHP set top box and integrated television set that is analogous to Wang's DSS network interface unit and DTV. This analogy seems implausible, since streaming a TV program and providing applications via a broadcast stream are not analogous. Therefore, a person skilled in the art, when departing from the teachings from Wang and wanting to provide applications to be sent to broadcast streams, would not refer to Ceulaer at all. However, even if Wang and Ceulaer would have been combined, the subject-matter of Claim 9 would still not have emerged there from. From the passages in Ceulaer cited by the Office, namely page 1, par. 0004, page 5, par. 0091 and 0101, even knowledge of the subject-matter of Claim 1 does not justify interpreting the teachings of Ceulaer so as to direct a person skilled in the art to the subject-matter of Claim 1. Ceulaer is directed towards a graphic displayed by a graphical user interface application and deals with allowing a user to select or operate services via the graphic user interface.

In Ceulaer paragraph 0090 it is defined that an animation is provided to illustrate reception of the broadcast service. This may suggest that broadcast service can be received. However, this does not imply that the broadcast service is an application program. Rather,

from the context the broadcast service is viewed as a content or a service that can be engaged by a user via the graphic user interface. In paragraph 0101, the Office finds the ground of affiliating a “service” with an “application”. However, the wording of paragraph 0101 is highly vague and even if a service might be affiliated with an application, it does not follow from this paragraph that a service that is transmitted corresponds to an application that is sent via a broadcast stream.

In contrast, since the graphic user interface allows a user to operate features or even applications, only the graphic user interface, which is not necessarily defined to be an application program, but might, for example, only consist of graphic elements, might be provided via a network, i.e. a broadcast stream. There is an important distinction between providing an application via a broadcast stream so that the application itself is sent through a network to an interface, as claimed, or to only allow operation of programs via a network.

It is also noted, that since the Office compares the GUI applications according to Wang with the MHP application according to Claim 1, it is contradictory to compare the claimed MHP applications with the “services” (alleged applications) instead of the GUI application again, which only allows the user to operate the services.

Also, since in paragraph 0101 it is disclosed that the groups and services are “marked” when they are moved within the graphic application of the user interface, this means that not the applications themselves are moved within the network but rather the graphical representations thereof are provided to the user terminal. Applications themselves cannot be “marked” or moved within a graphical user interface, but only representatives thereof such as, for example, icons or thumbnails are handled. Therefore, Ceulaer does not disclose actually transmitting an application within a network other than just a control interface for controlling actual applications, and only deals with graphical user interfaces.

This can also be based on paragraph [0090] that discloses that a scanning application receives a particular channel, which by the clarity of the wording itself as well as from the context of the document means that a particular channel is received in the sense of receiving a TV channel by receiving the content provided therefrom and not to receive/transmit the actual channel. Analogous thereto, the reception of broadcast services explained in paragraph [0091] does not teach to receive a service/application and to thereby move it via the network from one device to a terminal, but only to receive the function provided by the service. That is in fact obviously the reason why Ceulaer only refers to broadcast services and not to applications. The Office's interpretation of Ceulaer and of a possible combination of Ceulaer and Wang appears as *ex post facto* reasoning and would additionally not have lead the person skilled in the art to practice the subject-matter of Claim 1, at the time the invention was made.

Consequently, for the foregoing reasons, it is respectfully submitted that Wang and Ceulaer whether taken in combination or individually do not teach all the elements of Claim 1 and would not lead one of ordinary skill in the art to consider combining Wang and Ceulaer in the way that the two have been combined in the outstanding Office Action. Moreover, it is respectfully submitted that Wang and Ceulaer have been combined in this way simply as a product of improper hindsight reasoning in view of the teachings of the present specification.

Although of differing statutory class and/or scope, it is respectfully submitted that Claims 2-27 and 30-31, also patentably define over the asserted prior art because all of the rejections are based on a combination of Wang and Ceulaer as asserted above with regard to Claim 1. The tertiary or quaternary references used to reject some of the dependent claims, do not cure the deficiencies discussed above with regard to Wang and Ceulaer.

Consequently, in view of the present amendment and in light foregoing comments, it is respectfully submitted that Claims 1-27 and 30-31, as amended, define statutory subject matter, is definite, and patentably distinguishing over the prior art. The present application is therefore believed to be in condition for formal allowance and an early and favorable reconsideration of this application is therefore requested.

Respectfully submitted,

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